

KEITH ALLISON, et al,

Plaintiffs,

-vs-

EDWARD F. SHEA, JAMES L. ROBART,
STEPHEN S. TROTT, W. FLETCHER, and
JOHNNIE B. RAWLINSON,

Defendants.

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) CV-10-3020-LRS
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) ORDER OF DISMISSAL WITH
) PREJUDICE
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¹While the pleading herein suggests multiple parties--only Mr. Allison is identified in this litigation.

1 *Prezzi v. Schelter*, 469 F.2d 691, 692 (2d Cir.1972) (per curiam) (final
2 dismissal appropriate where complaint was "a labyrinthine prolixity of
3 unrelated and vituperative charges that defied comprehension" and amended
4 complaint failed to cure defect). While this Court notes that dismissal
5 of a Plaintiff's claim is strongly disfavored, it is also true that the
6 not insubstantial burden on judicial resources by such poorly articulated
7 and frivolous claims may detract from the proper attention other
8 meritorious claims deserve.

9 When addressing a *pro se* complaint, generally a district court "should
10 not dismiss without granting leave to amend at least once when a liberal
11 reading of the complaint gives any indication that a valid claim might
12 be stated." *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir.2000) [internal
13 quotation and citation omitted]; see also Fed.R.Civ.P. 15(a) (leave to
14 amend "shall be freely given when justice so requires"). An opportunity
15 to amend is not required where "the problem with [plaintiffs'] causes of
16 action is substantive" such that "[b]etter pleading will not cure it."
17 *Cuoco*, 222 F.3d at 112 (finding that repleading would be futile)
18 [citation omitted]; see also *Cortec Indus., Inc. v. Sum Holding L.P.*, 949
19 F.2d 42, 48 (2d Cir.1991) ("Of course, where a plaintiff is unable to
20 allege any fact sufficient to support its claim, a complaint should be
21 dismissed with prejudice.") (affirming, in part, dismissal of claim with
22 prejudice) [citation omitted].

23 As the Supreme Court has repeatedly recognized, the requirements set
24 forth in Rules 8, 10 and 12 are procedural rules that even *pro se* civil
25 rights plaintiffs must follow. See *McNeil v. U.S.*, 508 U.S. 106, 113,
26 113 S.Ct. 1980, 124 L.Ed.2d 21 (1993) ("While we have insisted that the

1 pleadings prepared by prisoners who do not have access to counsel be
2 liberally construed ... we have never suggested that procedural rules in
3 ordinary civil litigation should be interpreted so as to excuse mistakes
4 by those who proceed without counsel."); *Faretta v. California*, 422 U.S.
5 806, 834, n. 46, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975) ("The right of
6 self-representation is not a license ... not to comply with relevant
7 rules of procedural and substantive law."); *Triestman v. Fed. Bureau of*
8 *Prisons*, 470 F.3d 471, 477 (2d Cir.2006) (pro se status "does not exempt
9 a party from compliance with relevant rules of procedural and substantive
10 law") [citation omitted]. Stated more plainly, when a plaintiff is
11 proceeding pro se, "all normal rules of pleading are not absolutely
12 suspended." *Stinson v. Sheriff's Dep't of Sullivan Cty.*, 499 F.Supp.
13 259, 262 & n. 9 (S.D.N.Y.1980).

14 This court finds that Plaintiff has failed to comply with procedural
15 rules. Namely, the rules require a short and plain statement of the
16 grounds upon which the court's subject matter jurisdiction depends. A
17 complaint must also include a short and plain statement of the claim in
18 numbered paragraphs, each of which shall be limited as far as practicable
19 to a single set of circumstances. A complaint must also indicate the
20 statutory basis for each cause of action and indicate concisely and
21 directly how the named defendants allegedly violated the statute(s). This
22 has not been done in the present complaint.

23 Plaintiff has sued five federal judges. Plaintiff's complaint appears
24 focused on Mr. Allison's dissatisfaction with the results of his lawsuits
25 before the named defendants. A party cannot sue a judicial officer
26 outright merely because an unfavorable decision is handed down.

1 A judge is entitled to broad judicial immunity in rendering decisions
2 in cases brought before the court. *Pierson v. Ray*, 386 U.S. 547, 554,
3 87 S.Ct. 1213, 18 L.Ed.2d 288 (1967). The court finds that the present
4 complaint should be dismissed with prejudice based on the law.
5 Accordingly, for the reasons stated above, the complaint as filed herein
6 is **DISMISSED** with prejudice. Plaintiffs' Motion for Summary Judgment, **Ct.**
7 **Rec. 2**, is **DENIED as MOOT**; and Plaintiffs' "Motion to add Obstruction of
8 Justice (18 USCA §1501-1517) and 18 U.S.C. §4 as it relates to Misprision
9 of Felony," **Ct. Rec. 8**, is **DENIED as MOOT**.

10 **IT IS SO ORDERED.** The District Court Executive is directed to
11 provide copies of this Order to the parties, enter judgment, and close
12 the file.

13 **DATED** this 28th day of May, 2010.

14 s/Lonny R. Suko

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16 LONNY R. SUKO
17 CHIEF UNITED STATES DISTRICT JUDGE
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